

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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MILLENNIUM HEALTH, LLC,

Plaintiff,

vs.

WILLIAM GERLACH,

Defendant.

Case No. 15-cv-07235-WHP

**STIPULATION AND ORDER  
GRANTING PRELIMINARY RELIEF**

WHEREAS, this action was commenced by Plaintiff Millennium Health, LLC (“Plaintiff”) against Defendant William Gerlach (“Defendant”) on September 14, 2015, by the filing of a Complaint seeking monetary damages, and declaratory and injunctive relief against Defendant arising out of Defendant’s alleged breaches of his “Agreement Regarding Confidentiality, Non-Disclosure and Non-Competition,” dated March 11, 2013 (the “Agreement”);

WHEREAS, along with the Complaint, Plaintiff filed an Order to Show Cause seeking the issuance of a temporary restraining order and preliminary injunction to prevent Defendant from breaching the Agreement during the pendency of this action;

WHEREAS, on September 22, 2015, the parties appeared before the Honorable William H. Pauley III for oral argument on Plaintiff’s request for a temporary restraining order;

WHEREAS, nothing set forth in this Stipulation shall be construed as an admission that the Agreement is enforceable;

WHEREAS, during the oral argument, and based on Defendant’s representations that regardless of whether the Agreement is enforceable, he would not breach the relevant provisions of the Agreement going forward, the parties agreed to attempt to reach a stipulated resolution of

the merits of this matter and consented to the referral of this matter to Magistrate Judge James L. Cott for a conference to facilitate such a resolution before undertaking discovery and proceeding to a preliminary injunction hearing;

WHEREAS, during the oral argument, the parties agreed to enter into a Stipulation and Order granting the preliminary relief detailed herein in order to preserve the status quo pending the resolution of this matter;

IT IS HEREBY STIPULATED, AGREED, AND ORDERED as follows:

1. Defendant shall not engage in any activity that violates the terms of the confidentiality provision contained in Sections 2(a) and 2(j) of the Agreement.
2. Defendant shall not engage in any activity that violates the terms of the non-solicitation of customers provision contained in Section 3(b)(i) of the Agreement.
3. Defendant shall not engage in any activity which violates the terms of the non-competition provision contained in Section 3(b)(ii) of the Agreement.
4. Defendant shall not engage in any activity which violates the terms of the non-solicitation of Plaintiff's employees provision contained in Section 3(b)(iii) of the Agreement.
5. Within one week of the date that this Stipulation and Order is So Ordered by the Court, Defendant shall provide Plaintiff, for inspection, the hard drive upon which he copied Plaintiff's files.
6. If the parties are unable to reach a stipulated resolution of this matter within two weeks of the date that this Stipulation and Order is So Ordered by the Court, the parties will submit a joint letter to the Court regarding the status of settlement discussions.
7. Upon receipt of a joint letter informing the Court that no stipulated resolution has been reached by the parties, the Court will issue an order: (i) setting a briefing schedule or a

scheduling conference regarding the time and scope of expedited discovery; (ii) setting a briefing schedule for Plaintiff's request for the issuance of a preliminary injunction; and (iii) setting a date for an evidentiary hearing on Plaintiff's request for the issuance of a preliminary injunction.

8. This stipulation may be executed by facsimile or electronic signature.

Dated: September 23, 2015

SHEPPARD MULLIN RICHTER & HAMPTON LLP

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SO ORDERED:

Hon. William H. Pauley III, U.S.D.J. 9/24/15  
xmr